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**CANADIAN LEGAL HISTORY**

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**Professor Jim Phillips  
Professor Dick Risk**

**Faculty of Law  
University of Toronto**

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CANADIAN LEGAL HISTORY

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# CANADIAN LEGAL HISTORY - J. PHILLIPS

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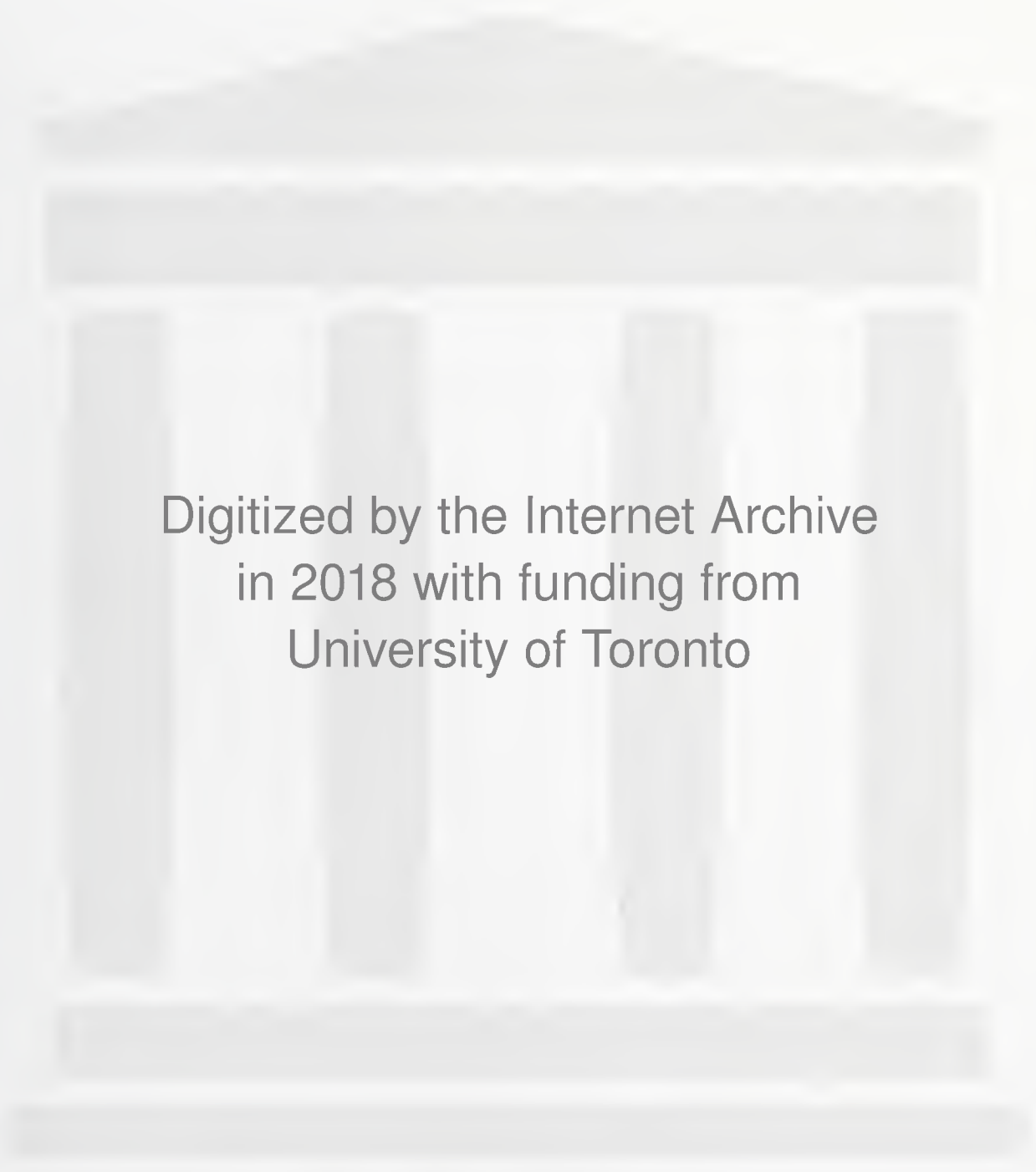
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Report of a Committee of the House of Assembly, on the Subject of a Bridewell,  
9 February 1838, in Journals of the Nova Scotia House of Assembly, 1838,  
Appendix 18.

While crimes are committed, a place for Criminals is, in a state of civilized society, indispensably necessary. An Establishment for this purpose should be suited to the objects for which, under every good and well ordered Government, such places are designed, viz: - The safety of the Community - the prevention of Crime - the lessening or the removal, if possible, of the burden on the public for their support - and the reformation of the Criminal. For all these purposes it will be perceived, at one glance, without any laboured investigation, that our present Establishment is utterly unsuitable and inefficient.

The decayed and ruinous state of the Building is such, that were it not for the Military Guard, and the fetters with which the wretched beings are loaded, the prisoners could not be kept, and even with these, it is well known that they frequently do escape. But were there no danger in this respect, the unwholesome noxious effluvia arising from Sewers, and other nuisances, connected with the present wretched Establishment, which no cleanliness on the part of the Keeper can prevent, render it not only unfit for human beings, but absolutely disgraceful to a civilized community. For, while good government requires that crime should be punished, humanity, and reason, and christianity, require that even Criminals should be treated as fellow Mortals and Immortals, and not as irrational beasts.

Respect for our common nature demands this of every well ordered mind, and of every properly organized Government.

It is of importance also, that "the prevention of crime should be a part of every Judicial system." Indeed the infliction of punishment should not be so much that the criminal should suffer for crime, as that crime should not be committed; and this is the sentiment of the most able writers and expounders on Jurisprudence. But our dilapidated and inadequate establishment has been for many years not a preventive of, but a nursery for crime. Huddled together, and mixing almost without restraint with each other, the long practised and hardened adepts in wickedness contaminate still further themselves and others, and perhaps confirm in their depravity the youthful offenders, and those who are less proficient in crime, and who perhaps under a different system might have been reclaimed, or at least might have been prevented from increasing the amount of crimes and consequently of wretchedness. It is therefore a part of the system to prison discipline, and that to which every enlightened Government directs its attention, to prevent this association. Hence separate or solitary confinement is strongly recommended and acted upon. The Prisons of the United States have strikingly and successfully illustrated the propriety and advantages of this mode, and have forcibly attracted the attention of the Governments of Europe. In England it is now generally adopted, and is strongly recommended to her Colonies. Two volumes of Reports of a Committee of the House of Parliament on the subject, have been sent to His Excellency the Lieutenant-Governor of this Province, and have been by him laid before us, and recommended to our



consideration. But such a system cannot be carried into operation until a suitable Building be erected.

To make the labour of the Criminal as productive as possible to his support, is what economy, common prudence, and common sense would dictate. In this all will agree, but in the manner in which this is to be carried into effect, there is great diversity of opinion. In the United States Prisons are manufactories, and in many places are fully equal, and in some more than equal, to their support. The large protecting duties, and the high price of labour of Artisans, enable them to do this; here, it would be, except in very few articles, quite impracticable. Self interest is the governing principle of mankind, and few will be found so patriotic as voluntarily to tax themselves for the public benefit. There are perhaps some few things that might be manufactured, if not to a profit, at least to avoid a loss, and employment itself, if it led to habits of industry, would be a benefit both to the offender and to the community. Some of the resources of our own country might thereby be brought into operation, (such as the grinding and preparing of native paints - the dressing of granite and other stones, &c.,) and this as far as it could be accomplished might be adopted. But perhaps there is no employment so unexceptionable, especially in this new country, as agriculture, if a suitable situation, and sufficient ground, could be obtained. In every country the produce of the ground is the basis of its support and prosperity, Commerce and Manufactories can extend no farther than the produce of the ground can pay for them, and all that commerce imports beyond this, (except it be food itself,) is a surplus that causes in business stagnation, distress, and bankruptcy. Every acre of Land therefore, that is brought under cultivation, every bushel of Wheat or Potatoes additional that is produced, whether by the Farmer, the Gentleman or the Criminal, is a real benefit to the public. It is an axiom in political economy that population will always flow in and increase in proportion to the support for them: and Commerce and manufacturers must of course increase with the demands of an increased population. He therefore that furnishes food, if it be only to the extent of an additional bushel of potatoes, is to that extent a benefactor to the community. In this view of the subject, it seems incontrovertible that clearing and cultivating the ground is the best manner in which the Criminals in our Bridewell can be employed. Every acre of Land brought under cultivation, would be a lasting benefit to the public. The inevitable conclusion to which these premises lead, is, that the Bridewell should be placed where these advantages can be derived.

"The reformation of the criminal" is held by all enlightened governments as an important object, and an imperative Duty; and increasingly so as light and intelligence are diffused. Hence the Sanguinary and vindictive laws which were dictated by the barbarians of the dark ages are either permitted to remain inoperative, or are abrogated and give place to such as emanate from the genial and meliorating influence of Science and Christianity. And in those countries where this influence has been the most unchecked and unfettered, has the more humane and philanthropic system the most advanced. Justice has not been deprived of its authority, nor has it let down in the least any of its high attributes. It has walked through the land with dignity and majesty, but also with benignity; protecting with one hand the innocent, and with the other correcting but not destroying the guilty. It has been asserted, and it is a fact, to which every observing and reflecting mind will give ready assent, that is not the amount or the severity, but the certainty of punishment, that is likely to deter from crime. A consciousness of this and that in consequence of the disproportion in many of our laws between the offence and the punishment the guilty frequently escape, have no doubt induced

some of the greatest minds in the Legislature of our Country to endeavour to revise our criminal code, and make it more accordant with the increased intelligence of the public mind. To carry into effect these benevolent intentions, Prisons are so constructed, and Prison Discipline so directed, as to give to the Criminal the advantages of moral culture, from which more is expected than from Legislative enactments. This moral culture is best applied, and operates most effectually in solitary confinement, to have the advantages of which a suitable Building should be constructed.

But as this must be a Provincial Establishment to receive criminals from every part of the Province, it must be, to a great extent at least, a Provincial charge. The capital is heavily taxed by the impositions and depredations of such characters . . . . and it is not fair that they should be further disproportionately taxed . . . . Justice seems to demand that an institution designed for the general benefit of the Province should be supported from the general Funds of the Province.

If the view of the subject above taken to be correct, the inference seems to be that it would not be so advantageous to the public to establish the Bridewell on lands already cultivated, as to place it on some part which is altogether unproductive. Hundreds of acres are in this stage on the Peninsula. Every acre of this when reclaimed would be doubled or quadrupled in value, if immediately sold; or if retained would increase food for the population, and population would thereby increase with the food. A large tract of Glebe Land is on the shore of the basin, within three miles of the Town, which is of little or no value to the Church, and never will be in its present state. Perhaps a part of it could be obtained, or, if not, some similarly situated might be purchased for a small amount. To have it near the town and near the water are two desirable objects, both as regards the erection of the Building, and the conveying of articles to and from it. Even the stones taken off it would turn to some account.

The subject of this report is one of much Importance to the community, and the consideration of it cannot, from the dilapidated state of the present Bridewell, be much longer deferred. After due investigation and reflection, the above is respectfully recommended and submitted.

H. Bell, Chairman

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Editorial in Novascotian, 3 May 1838

Bridewell - A report on this important subject appears in to-day's number, [preceding document] and should meet with public attention. The Bridewell is in an inefficient state, it is destitute of the requisite funds, and the House of Assembly in its late Session declined the granting of means for the erection of a suitable building, or for the support of the present establishment. This is an awkward state of things, and the Assembly has not taken the direct course which such a subject absolutely required. If country members, influenced by their own judgments, or by the direction of their constituents, had resolved that the establishment should not be a Provincial charge, but a local one, they should have said so, plainly, at the earliest opportunity, and not merely imply the resolution, and give the subject the "go by" at the termination of the session. Halifax, under present circumstances, is not able, and ought not to be required, to support all the criminals of the province - and none will say that Nova Scotia is in that period of her history, at which she should revert to a state of savage life, turn out her criminals, make void the sentences of her courts, and say to her community that they cannot be guarded against depredators.

Such a state of things can be scarcely thought possible, much less probable, notwithstanding late appearances to that effect. Members of Assembly who felt it more particularly their duty to attend to this matter - which, however, should be the business of all - brought the subject before the Legislature, by plans and estimates for a new Bridewell, and by a motion for a grant of £4,000 for that object. After some conversation, in which the desirableness of some respectable establishment was generally admitted, and in which several wishes for delay were expressed, the matter was set aside for the time being. At a subsequent period, a resolution was moved for a grant of £200, to enable the existing Establishment to be carried on during the year. To this it was objected, that the Provinces generally should not be taxed for the support of a Town Establishment, - and that the Bridewell was inefficient, and therefore not deserving of support. The best objection was answered by members showing that the Bridewell was decidedly a Provincial Establishment, that the town contributed largely for a variety of purposes, and that it should not be called on for more than its share of that charge. Against the second objective, gentlemen urged that the Bridewell would be less efficient if the grant were withheld, that the criminals should be turned loose, and that it was as efficient as should be expected until a new building were provided. The House however negatived the proposition, and we know not how matters are to be arranged.

The jealousy which has long existed between Town and Country interests, and which one sometimes hopes - for the sake of human nature, common sense, and the character of all concerned - is about to vanish forever, shows itself occasionally where not expected, and among those from whom much better would be anticipated. An evidence of this feeling, beside the Bridewell question, appears to be, the refusal of the house to grant a small sum for the completion of the new road leading to Three-mile House, along the Narrow - or to provide for an over expenditure which had occurred on the same. This road is of more direct advantage to all parts of the country in inland intercourse with Halifax, than it is to the inhabitants of the town, and, as such, had a strong claim on the Legislature. But supporting that it was partially ornamental and convenient to the Town also, should that make the country weigh

niceties, and act like a miser dealing with a stranger? Surely the country ought to take some pride in the improvement and growth of the Metropolis - setting aside all considerations of interest, although the interests of town and country are always mutual and reciprocatory. The improvement of the country will advance the town, as the improvement of the town will add to the character and prosperity of the country. Halifax, also, is not like old, wealthy, corporated towns, with great influence, extensive property, and abundant funds, - its markets, and inlets and outlets, are free as the high roads to country dealers - it cannot raise means by taxing those whose residence is at a distance, and on these, and a variety of other considerations, it should, in a peculiar sense, and to a considerable degree, be looked upon as the charge of the country, and as the centre where improvements should be particularly fostered, and whence they might be expected to spread over the whole Province.

The two services more particularly under consideration, the Bridewell and the new Road, are public services, - both have been hampered by parsimony, if not by injustice, - but we trust that some means will be devised whereby efficient remedies may be applied; and threatening evils be prevented.

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